

REMARKS

Reconsideration of the above-identified application is respectfully requested. Claims 1-38 and 42-61 and 63-64 are presently pending in this application. No claims have been amended. Claims 65-68 have been added to more particularly claim certain aspects of Applicant's invention. Support for the new claims can be found, for example, in the specification as filed at paragraphs 4 and 18. Claim 62 has been cancelled. Thus, no new matter has been added.

The Rejection on the basis of double patenting.

The Office Action rejected claims 62 over claim 61 for double patenting. Claim 62 has been cancelled. Thus, the rejection is overcome.

The Rejections Under 35 U.S.C. § 103 On The Basis Of Obviousness

The Office Action rejected claims 1-9, 13-17, 19-28, 32, 33, 36-38, 42-48, 50-58 and 61-64 under 35 U.S.C. § 103(a) as assertedly obvious over Jackson in view of Ottrando. Briefly, Jackson assertedly discloses in Figures 1 and 2 and in the specification a goal tracking system comprising a substrate comprising a surface having a plurality of areas including a title area, a goal statement area and an activity area defining a sports activity, where each area has permanent markings related to the areas as recited. The Office Action acknowledges that Jackson fails to disclose a movable activity symbol for tracking progress. Ottrando assertedly discloses in Figure 1 and in the specification a goal tracking system comprising an activity area having a movable activity symbol removably retained thereon, where the symbol is moved to demonstrate progress towards a goal. It would assertedly have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Jackson by providing a movable activity symbol for the purpose of allowing a user to easily track progress toward a goal, particularly since Jackson discloses indicia relating to "yards" being gained as progress towards a "touchdown", to indicate a goal being achieved. With respect to claims 2, 14, 21, 44 and, 55, the Office Action asserts that the substrate of Jackson is inherently erasable. The use of an erasable writing implement such as a pencil is an obvious variation on the teachings of Jackson, as such implements are well known. With respect to claim 3 and 22 the Office Action asserts that Jackson discloses that the writing relates to yards, and thus defines a correlation between achieving a step of the goal and movement along the sports activity field. With respect to claims 4-7, 23-26, 43 and 54, the daily chores shown in Figure 2 are short

term and medium term goals. With respect to claims 8 and 27 the Office Action asserts that the indicia reading "Responsible Football League" is considered to be a positive slogan. With respect to claims 9, 28, 45 and 56, the Office Action asserts that the small football fields of Jackson are considered to be a scorekeeping area. It should also be noted with respect to claims 2-9 that the content of printed indicia will not overcome the prior art where there is no new and nonobvious functional relationship between the indicia and the underlying substrate. See *In re Ngai*, 70 USPQ2d 1862 (Fed. Cir. 2004) and *In re Gulack*, 703 F.2d 1381 (Fed. Cir. 1983). Even if Jackson did not disclose or suggest the content of the printed indicia as recited, the claims still would not be allowable for this reason. With respect to claims 13, 32 and 57, the Office Action asserts that Jackson discloses a football field, where progress towards a touchdown is tracked. With respect to claims 33, 46 and 57, the Office Action asserts that the teachings of Jackson as viewed with those of Ottrando suggest the use of a football as the movable activity piece. With respect to claims 15, 16, 36, 38, 50, 52, 61, 62 and 64, the Office Action asserts that hook and loop systems and computer displays are well known, and are considered to be obvious variations on the teachings of Ottrando. With respect to claims 17, 37, 51 and 63, the Office Action asserts that Ottrando discloses that its display comprises a magnetic board, where the movable activity piece 30 is a magnet capable of being moved along the path. Claims 19, 38, 47 and 58 are rejected because the Office Action asserts that the indicia does not overcome the prior art under *In re Ngai* as discussed above. The Office Action asserts that the method of claims 42 and 53 is suggested by the combined teachings of the references, as Jackson discloses writing goals and tracking progress using a sports activity field, and Ottrando discloses moving an activity symbol to track progress towards a goal. With respect to claims 48 and 59, the Office Action asserts that the time period recited is an obvious variation on the teachings of Jackson as viewed with Ottrando.

The Office Action rejected the remaining claims under various combinations of Jackson and Ottrando with still further references.

Applicants respectfully traverse the rejections.

All rejections are based on Jackson as the primary reference. Applicant respectfully submits that the Office Action has misinterpreted Jackson. Jackson does not contain any teaching (or suggestion) of the required "at least one activity area comprising third permanent markings defining at least one sports activity field comprising at least one sports activity surface configured to removably retain at least one easily movable activity symbol." While it is true that Jackson depicts part of a football field, the depiction in Jackson is not designed nor intended to be used as an activity area. Rather, it is just a picture of a football field. In

contrast, in the claimed invention, the activity area is structured such that an easily movable activity symbol such as, for example, a football or a bicycle with rider, can be moved in structured conformance with the attainment/failure to attain certain steps toward a goal(s). Such movement depicts the progress toward the goal. In Jackson, the picture of a part of a football field is merely a backdrop to a player doing well (Figure 1, element 1A) or doing poorly (9A). The important aspect of the picture in Jackson is not the user interactively performing an activity on that field (which does not appear to be practically possible given the picture in Jackson), but rather the photo of the football player running well or poorly; the field-backdrop in Jackson could be omitted entirely and the point would still be made: a player in good running position or a player being tackled. In contrast, in the claimed invention, the activity area is essential to the structure of the tracking system because tracking actually takes place on that activity area.

This difference is further demonstrated by Figure 2 of Jackson, where the only suggested use of Areas 1B and 3B (the numbers for the players+football field backdrop that are identified as 1A and 9A in Figure 1 of Jackson) is to place a user's name on the jersey of the football player. In other words, as noted above, the focal point and only suggested use of the picture is of the player ("Joe" in 1B and 3B). There is no suggested use of the football field itself and no suggested tracking on the football field itself. Indeed, there is no suggested activity of any kind for the football field itself. The only suggested action is to place Joe on the player's jersey. Again, the football field could be completely absent from Figures 1 and 2 of Jackson and have no effect at all on the calendar it describes. Jackson presents a laudable format, but it simply has nothing to do with the claimed invention, where the activity area is essential to the tracking system. Without it, there simply would be no tracking system.

Applicant respectfully notes that there are a variety of other bases on which to traverse the rejections, including bases found other cited references. However, in view of the lack of any teaching or suggestion (or impetus) in Jackson of all of the elements recited in Applicant's claims, Applicant respectfully submits that the rejections should be withdrawn for the reasons discussed above. Thus, Applicant respectfully submits that all the outstanding rejections under 35 U.S.C. § 103 have been traversed and respectfully requests withdrawal of all outstanding rejections and allowance of the pending claims.

For the foregoing reasons, Applicant respectfully submits that the claims are in compliance with 35 U.S.C. § 101 *et. seq.* Accordingly, Applicant respectfully requests allowance of all pending claims, 1-36 and 42-43. Applicant has made a good faith effort to

place this application in condition for allowance. However, should the Examiner have any further questions about the application, Applicant respectfully requests the Examiner to contact the undersigned attorney at (425) 455-5575 to resolve the matter. A check is enclosed herewith to cover the cost of the extension of time. However, if any need for any fee is found, for any reason, kindly this a petition therefore and charge any necessary fees to Deposit Account 07-1897.

DATED this 29th day of May 2007.

Respectfully submitted,
GRAYBEAL JACKSON HALEY LLP

By 
Joshua King
Registration No. 35,570
Attorneys for Applicant
155-108th Avenue NE, Suite 350
Bellevue, WA 98004-5973
(425) 455-5575